

REMARKS

Applicants respectfully request further examination and reconsideration in view of the above amendments and the comments set forth fully below. Claims 24-26 and 35-42 were pending. Within the Office Action, Claims 24-26 and 35-42 have been rejected. Claims 24-26 and 35-42 are now pending.

The Applicants' attorney would like to thank the Examiner for his time and courteousness during the interview on Monday, March 7, 2005. During the interview, it was agreed that U.S. Patent No. 6,126,904 to Zuellig et al. does not anticipate the presently claimed invention. It was agreed that the Examiner will perform an updated prior art search after receiving this response.

Rejections Under 35 U.S.C. § 102

Within the Office Action, Claims 24, 26, 35 and 38-40 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,126,904 to Zuellig et al. (hereinafter "Zuellig"). The applicants respectfully disagree. Zuellig teaches an apparatus and methods for the preparation of chemical compounds. Zuellig teaches that the draining of liquid from the reaction vessels 30 requires the opening of valves 112. [Zuellig, col. 12, lines 43-58, Figures 3 and 9] Zuellig teaches that the collector 116 comprises a housing containing a plurality of collection vessels 40 which receive drainage fluid exiting the reaction vessel. [Zuellig, col. 14, lines 45-62] Zuellig does not teach either a first waste tube (Independent Claims 24 and 41) or a means for purging (Independent Claim 35) for engaging a selective one of the first drain to purge material from the first bank of vials and the second drain to purge material from the second bank of vials. Zuellig does not teach a selectively engaging waste tube.

In contrast to the teachings of Zuellig, the multi-well rotary synthesizer of the present invention includes a controller, a plurality of precision fit vials circularly arranged in multiple banks on a cartridge, a drain corresponding to each bank of vials, a chamber bowl, a plurality of valves for delivering reagents to selective vials and a waste tube system for selectively purging material from the vials. [Specification, p. 3, lines 8-11] The banks of vials can also be selectively purged. [Specification, p. 3, lines 8-11] Each individual bank of vials has a corresponding drain. [Specification, page 3, line 16] The reagent solution is purged from a bank of vials by rotating the cartridge until the corresponding drain is positioned above the waste tube

system and coupling the waste tube system to the corresponding drain. As discussed above, Zuellig does not teach a selectively engaging waste tube.

The independent Claim 24 is directed to a purging system within a synthesizer, the synthesizer further comprising a first bank of vials and a second bank of vials wherein the first bank of vials has a first drain and the second bank of vials has a second drain. The purging system of Claim 24 comprises a pressurizing system for creating a pressure differential within a selective one of the first bank of vials and the second bank of vials and a first waste tube capable of engaging a selective one of the first drain to purge material from the first bank of vials and the second drain to purge material from the second bank of vials. As discussed above, Zuellig does not teach a first waste tube capable of engaging a selective one of the first drain to purge material from the first bank of vials and the second drain to purge material from the second bank of vials. For at least these reasons, the independent Claim 24 is allowable over the teachings of Zuellig.

Claim 26 is dependent on the independent Claim 24. As described above, the independent Claim 24 is allowable over the teachings of Zuellig. Accordingly, the Claim 26 is also allowable as being dependent on an allowable base claim.

The independent Claim 35 is directed to a purging system within a synthesizer, the synthesizer further comprising a first bank of vials and a second bank of vials wherein the first bank of vials has a first drain and the second bank of vials has a second drain. The purging system of Claim 35 comprises means for generating a pressure differential within a selective one of the first bank of vials and the second bank of vials and means for purging for engaging a selective one of the first drain for purging material from the first bank of vials and the second drain to purge material from the second bank of vials. As discussed above, Zuellig does not teach a means for purging for engaging a selective one of the first drain for purging material from the first bank of vials and the second drain to purge material from the second bank of vials. For at least these reasons, the independent Claim 35 is allowable over the teachings of Zuellig.

Claims 38-40 are all dependent on the independent Claim 35. As described above, the independent Claim 35 is allowable over the teachings of Zuellig. Accordingly, the Claims 38-40 are all also allowable as being dependent on an allowable base claim.

Rejections Under 35 U.S.C. § 103

Within the Office Action, Claims 25, 36, 37, 41 and 42 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Zuellig in view of U.S. Patent No. 5,882,601 to Kath et al. (hereinafter "Kath"). The applicants respectfully disagree. As described above, Zuellig does not teach a selectively engaging waste tube.

Kath teaches a deflected septum seal access port. Kath also does not teach a selectively engaging waste tube. Accordingly, neither Zuellig, Kath nor their combination teach a selectively engaging waste tube.

Claim 25 is dependent on the independent Claim 24. As described above, the independent Claim 24 is allowable over the teachings of Zuellig. Accordingly, the Claim 25 is also allowable as being dependent on an allowable base claim.

Claims 36 and 37 are both dependent on the independent Claim 35. As described above, the independent Claim 35 is allowable over the teachings of Zuellig. Accordingly, the Claims 36 and 37 are both also allowable as being dependent on an allowable base claim.

The independent Claim 41 is directed to a purging system within a synthesizer, the synthesizer further comprising a first bank of vials having a first drain and a second bank of vials having a second drain. The purging system of Claim 41 comprises a pressurizing system to generate a pressure differential within a selective one of the first bank of vials and the second bank of vials, a first waste tube capable of engaging a selective one of the first drain to purge material from the first bank of vials and the second drain to purge material from the second bank of vials and a drain seal coupled to the first waste tube for generating a flexible seal between the first waste tube and the selective one of the first drain and the second drain. As discussed above, neither Zuellig, Kath nor their combination teach a first waste tube capable of engaging a selective one of the first drain to purge material from the first bank of vials and the second drain to purge material from the second bank of vials. For at least these reasons, the independent Claim 41 is allowable over the teachings of Zuellig, Kath and their combination.

Claim 42 is dependent on the independent Claim 41. As described above, the independent Claim 41 is allowable over the teachings of Zuellig, Kath and their combination. Accordingly, the Claim 42 is also allowable as being dependent on an allowable base claim.

Attorney Docket No.: PATENT
NEI-00103

Applicants respectfully submit that the claims, as amended, are now in a condition for allowance, and allowance at an early date would be appreciated. Should the Examiner have any questions or comments, they are encouraged to call the undersigned at (408) 530-9700 to discuss the same so that any outstanding issues can be expeditiously resolved.

Respectfully submitted,
HAVERSTOCK & OWENS LLP

Dated: March 14, 2005

By: Jonathan O. Owens
Jonathan O. Owens
Reg. No.: 37,902
Attorneys for Applicants

CERTIFICATE OF MAILING (USPS FORM 3800)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450

HAVERSTOCK & OWENS LLP

Date: 3/14/05 By: [Signature]